

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW MEXICO**

RUDOLPH GERMAN SERRANO,

Plaintiff,

vs.

No. CV 15-1063 KG/KK

GOVERNOR SUSANA MARTINEZ,
MAYOR GREGORY HULL,
CHIEF MICHAEL GEIER,
OFFICER BUHL, G.A., and
OFFICER B. MCKINNEY,

Defendants.

**ORDER OF DISMISSAL FOR FAILURE TO COMPLY
WITH COURT ORDERS AND RULES**

THIS MATTER comes before the Court *sua sponte* under Rule 41(b) of the Federal Rules of Civil Procedure on the Court's Memorandum Opinion and Order Granting Motion to Proceed *In Forma Pauperis* (Doc. 5) and Order to Show Cause (Doc. 6). Also before the Court are Plaintiff Rudolph German Serrano's Motion to Consolidate Cases (Doc. 9) and Motion for electronic access (Doc. 10). The Court will dismiss this case without prejudice for failure to comply with the Court's orders and Rule 4(m) of the Federal Rules of Civil Procedure. The Court denies Serrano's Motions as moot in light of this dismissal.

On December 3, 2015, the Court entered its Memorandum Opinion and Order (Doc. 5). The Court granted Serrano leave to proceed *in forma pauperis* and dismissed all Defendants other than Officer B. McKinney. (Doc. 5). In the Memorandum Opinion and Order, the Court advised Serrano that it would not order service of Summons and Complaint on Defendant McKinney because Serrano had not included Defendant McKinney's address, which is necessary

for service of process. The Court further advised it would order service if Serrano filed a motion for service that included Defendant McKinney's address. (Doc. 5 at 4).

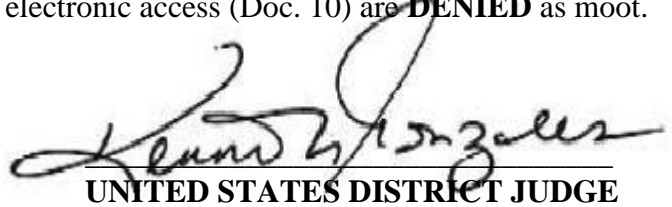
The Court then entered an Order to Show Cause on March 23, 2016. (Doc. 6). The Court noted in the Order to Show Cause that Serrano filed this lawsuit on November 20, 2015, and that the 120-day deadline for service on Defendant McKinney had expired on March 21, 2016. As of March 22, 2016, no return of service or motion for service of process had been filed with the Court. (Doc. 6 at 2). The Court ordered Serrano to show cause why service had not been accomplished on Defendant McKinney within twenty-one days of entry of the Order. The Order also notified Serrano that failure to comply with the Order may result in dismissal of the remaining claims against Defendant McKinney. (Doc. 6 at 2).

The deadline for Serrano to respond to the Order to Show Cause was April 13, 2016. On April 14, 2016, Serrano filed his Response to order to show cause (Doc. 7). The Response fails to address why service of process has not been accomplished on Defendant McKinney and, instead, contains a disjointed statement criticizing the Rio Rancho Police Department. It also includes two attached forms of summons, one made out to multiple former Defendants and Defendant McKinney at a Rio Rancho civic center address, and one directed to Defendant McKinney that does not include any address. (Doc. 7). Serrano has failed to comply with the Court's Orders and with the time limit for service under Fed.R.Civ.P. 4(m).

The Court may dismiss an action under Fed.R.Civ.P. 41(b) for failure to prosecute, to comply with the rules of civil procedure, or to comply with court orders. *See Olsen v. Mapes*, 333 F.3d 1199, 1204, n. 3 (10th Cir. 2003) (noting that district court may dismiss, *sua sponte* when one of Rule 41(b) conditions is met). The Court will dismiss this civil action because

Serrano failed to comply with the Court's December 3, 2015, and March 23, 2016, Orders and with the 120-day time limit for service under Fed.R.Civ.P. 4(m).

IT IS ORDERED that Plaintiff Rudolph German Serrano's Civil Rights Complaint Pursuant to 42 U.S.C. § 1983 (Doc. 1) and all claims therein are **DISMISSED** without prejudice for failure to comply with the Court's Orders and with Fed.R.Civ.P. 4(m), and Plaintiff's Motion to Consolidate Cases (Doc. 9) and Motion for electronic access (Doc. 10) are **DENIED** as moot.



UNITED STATES DISTRICT JUDGE